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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PIPE TRADES DISTRICT COUNCIL #36
PENSION TRUST FUND, et al.,

Plaintiffs,

v.

GARY MARSH,

Defendant.

Case No. 16-cv-05263-BLF

**ORDER ADOPTING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION AND
GRANTING THE MOTION FOR
DEFAULT JUDGMENT**

[Re: ECF 41]

On September 13, 2016, Plaintiffs Pipe Trades District Council #36 Pension Trust Fund, Pipe Trades District Council #36 Health and Welfare Trust Fund, Pipe Trades District Council #36 Journeyman and Apprenticeship Training Trust Fund, Central California Pipe Trades Industry Labor-Management Cooperation Committee Trust Fund, and Mechanical Contractor Council of Central California and International Training Fund filed the above-titled action alleging three causes of action against Defendants Gary Alan Marsh dba Marsh Industrial Refrigeration ("Marsh"), Suretec Indemnity Company ("SIC"), and Old Republic Surety Company ("ORSC"). Compl., ECF 1. Plaintiffs assert three causes of action: breach of contract (failure to pay fringe benefit contributions), accounting, and a claim on contractor's license bond. *Id.* Plaintiffs settled with Defendants SIC and ORSC, and bring the instant motion for default judgment against Defendant Marsh alone.


Now before the Court is Magistrate Judge Lloyd's Report and Recommendation ("R&R") that the Court grant the Plaintiff's motion for default judgment on the breach of contract (failure to pay fringe benefit contributions) cause of action. Because courts in this jurisdiction routinely construe breach of contract claims involving ERISA enforcement to be brought under 29 U.S.C. §§ 1002(14), 1132(a), 1145, this Court has jurisdiction over this seemingly state law claim. *See, e.g., Bd. of Trs. v. Pac. Coast Markings, Inc.*, No. C 14-2979 PJH, 2015 WL 1884781 (N.D. Cal.

1 Apr. 17, 2015); *Bd. of Trs. v. KMA Concrete Constr. Co.*, No. C-10-05774 JCS, 2011 WL
2 7446345, at *1 (N.D. Cal. Dec. 20, 2011), *adopted by* No. C 10-5774 SBA, 2012 WL 688510
3 (N.D. Cal. Mar. 2, 2012).

4 The time for objecting to the R&R has elapsed, and no objections were filed. Fed. R. Civ.
5 P. 72(b)(2). Having read and considered Judge Lloyd's R&R, the Court finds it correct, well
6 reasoned, and thorough, and adopts it in every respect. Accordingly, the above-titled motion for
7 default judgment is GRANTED.

8 **IT IS SO ORDERED.**

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10 Dated: May 30, 2017

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12 BETH LABSON FREEMAN
13 United States District Judge
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